



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 17, 1996

Ms. Doreen E. McGookey  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
601 Police and Courts Building  
Dallas, Texas 75201

OR96-1692

Dear Ms. McGookey:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 100919.

The City of Dallas (the "city") received a request for information in "police file # 9600056 on a Harry A. Schlefkin being investigated by Det. Bill Carollo of the Financial Crimes Squad of the Dallas Police Department." You assert that information regarding the finances of individuals who are either victims of crime or subject to an investigation by the financial crimes section of the Dallas Police Department is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with the common-law right to privacy. You also inform us that the Dallas County Grand Jury subpoenaed portions of the requested information and contend that the subpoenaed information is confidential.

Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

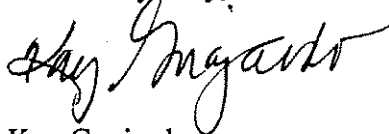
As applied to financial information, the protection of common-law privacy depends on whether the information concerns a financial transaction between an individual and the governmental body. The public has a legitimate interest in financial information that concerns a transaction with a governmental body. *See* Open Records Decision No. 600 (1992). On the other hand, common-law privacy generally protects background financial information of an individual, that is, information about an individual's overall financial status and past financial history. Information that is of a highly private and embarrassing nature may be of legitimate public concern in certain circumstances. *See* Open Records Decision No. 373 (1983). We believe the public has a legitimate interest in an individual's private financial information when that individual has committed a financial crime and the information pertains to that crime. We do not believe the public has a legitimate interest in the private information of a victim of a financial crime.

The information at issue consists of copies of the front and back of checks. You have not identified the individuals whose names appear on the checks. Although we assume Mr. Schlefkin is a suspect, we do not know whether the individuals named on the checks are victims or perhaps another suspect of the crime. We believe the city must withhold the names of victims that appear on the checks. However, as the requestor is the payor on most of the checks, we do not believe his privacy rights are implicated by the release to him of the checks he wrote. If the payor on the check that the requestor did not write is a victim in this situation, we believe the city must withhold all information on the check that identifies the victim, including the account number.

As for the information the Dallas County Grand Jury subpoenaed, we believe that information obtained pursuant to a grand jury subpoena is within the grand jury's constructive possession. Information within a grand jury's constructive possession is considered to be a record of the judiciary. *See* Open Records Decision No. 513 (1988). The Open Records Act does not apply to records of the judiciary. Gov't Code § 552.003(1)(B). Accordingly, the Open Records Act does not require the city to release information the Dallas County Grand Jury subpoenaed.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", written over a horizontal line.

Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 100919

Enclosures: Submitted documents

cc: Mr. Bill Campbell  
8415 Radcliffe Drive  
Tyler, Texas 75703  
(w/o enclosures)